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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,922	09/23/2003	Kevin Garrison	3046-02	3332

37101 7590 05/26/2005

LAW OFFICE OF MICHAEL P. EDDY  
#510, 2683 VIA DE LA VALLE, SUITE G  
DEL MAR, CA 92014

EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/668,922

Applicant(s)

GARRISON ET AL.

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

Acknowledgment is made of the remarks and amendment filed on 3/07/05 and 4/18/05, respectively.

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract as amended on 3/07/05 continues to contain the word "said".

Appropriate correction is required.

### *Claim Objections*

2. Claim 1 is objected to because of the following informalities:

in claim 1, line 3, substitute both occurrences of "the" with --a--;

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardesty et al. (US 5,504,315) (hereinafter referred to as 'Hardesty') in view of Martino (US 5,272,323).

Hardesty teaches a method of verifying barcode data, comprising the steps of:

detecting the presence of barcode data (col. 6, lines 33-40);

obtaining measurements of the bars and spaces of said barcode data (col. 8, lines 60-67);

identifying the type of barcode data present in said file (col. 9, lines 50-54);

decoding said barcode data using a predetermined algorithm used for that type of barcode data (col. 9, lines 54-63);

verifying said barcode data using the result of the decoding step, and

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outputting the results of the verification (col. 9, lines 47-50);  
the method further comprising creating and storing meta data relating to said  
barcode data; and  
the method further comprising retrieving, receiving and storing aspects of the  
barcode data as well as related data into a database (col. 8, lines 14-19).

Hardesty lacks the teaching of detecting the presence of barcode data in a digital file.

Martino teaches a method of verifying barcode data, comprising the step of:  
detecting the presence of barcode data in a digital file (col. 5, lines 65-67).

One of ordinary skill in the art would have readily recognized that detecting barcode data  
in a digital file would have been beneficial for providing a primary determination that an  
operation upon barcode data will subsequently take place. Therefore, it would have been  
obvious, at the time the invention was made, to modify teachings of Hardesty with the  
aforementioned teaching of Martino to save time and effort required to process and decode a  
barcode in case barcode data is not present.

### ***Response to Arguments***

6. Applicant's arguments, filed 3/07/05, with respect to the rejection(s) of claim(s) 1-6 under  
35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has  
been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in  
view of 35 U.S.C. 103(a).

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***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chiu (US 6,354,503) teaches a bar code online scanner/verifier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
May 19, 2005

  
DIANE I. LEE  
PRIMARY EXAMINER